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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,887	12/27/2001	Todd Lagimonier	003636.0114	1873

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EXAMINER
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HARRELL, ROBERT B

ART UNIT	PAPER NUMBER
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2442

MAIL DATE	DELIVERY MODE
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08/31/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/026,887	<b>Applicant(s)</b> LAGIMONIER ET AL.	
	<b>Examiner</b> Robert B. Harrell	<b>Art Unit</b> 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. Claims 1, 2, and 4-7 remain presented for examination.
2. The applicant should always use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks <sup>TM</sup>, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., ***provide proper antecedent basis for “the” and “said” within each claim***) with each claim ending in a period. Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.
3. All prior rejections, herein prior presented in the past, are withdrawn in view of the following. The applicant's remarks filed 16 June 2010 have been fully considered but deem moot in view of the following.
4. The following is a quotation of the first paragraph of 35 U.S.C 112:

***The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.***

5. The claims recite in part that the second physical server transmits the application program to the client device in response to the client device request transmitted to the first physical server. However, in light of the specification, specifically on page 7 (line 21) to page 8 (line 3), of the applicant's specification, the servers 110 may be configure to “supply” application software programs to the client. When such “supply” is viewed in light of the whole specification, more specifically on page 10 (line 22) to page 11 (line 3), the actual application software program is not “transmitted” per se’ but its functionality is made available as local processing on the second server. That this, the enterprise application 205 of the server 110 on page 10 (line 22) to page 11 (line 3) is not shown to be configure to provide, or supply, itself to the client as a program download (upload) since the enterprise application 205 of the server 110 is itself the application software program of page 7 (line 2) to page 8 (line 3). It appears, the application as originally filed, was directed to supplying application software program services not the binary codes themselves to the clients (i.e., a Doctor supplies medical knowledge, not his Degree; a police office supplies security to citizens but does not had over his uniform and equipment). In short, there is no adequate disclosure of how the application software programs are transmitted to the clients to the servers (i.e., directly as in peer-to-peer or via the first server).

6. **Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 112, first paragraph**, for the reasons set forth in the objection to the specification.

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7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

**A person shall be entitled to a patent unless -**

**(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;**

8. *Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 102 (e)* as being anticipated by Jardin et al. (United States Patent Number: US 6,912,588 B1).

9. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference is cited* and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions.

10. Per claim 1, Jardin taught a method (e.g., see Title) of service-chaining a client device request for service (e.g., see Abstract), comprising:

- a) receiving a client device request (e.g., see figure 5 (504, 508)), for an application program (e.g., see figure 1 (DATA 170) , figure 2 (DATA (260), col. 4 (line 34 "a computer program")) at a first physical server (e.g., see figure 4 (420));
- b) determining with a service-chaining module of said first physical server an identity of a second physical server (e.g., see figure 4 (430)) within a distributed environment that stores said application program associated with said client device request for said application program (e.g., see figure 5 (516)); and,
- c) transmitting a message object from said first physical server to said second physical server (e.g., see figure 5 (536)) to enable said second physical server to transmit said application program to said client device in response to said client device request transmitted to said first physical server (e.g., see figure 6 (650)).

11. Per claim 2, Jardin also taught receiving said message object at said second physical server, per figure 6 (624, 628), and initiating a servicing of said client device request for said application at said second physical server per figure 6 (640, 644, 648, 650).

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12. Per claim 4, claim 5, and claim 6, the predefined profile clearly was anticipated to be the most efficient path and an itinerary is required so the second server knows what to transmit to the client via the direct peer-to-peer connection between the second server and the client. Finally, it was clear that servers performed more than one request for a client per col. 7 (line 2 "requests").

13. Per claim 7, this claim does not teach or defined above the correspondingly rejected claims given above, and is also thus rejected for the same reasons given above.

14. **A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the data of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).**

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Thursday from 5:30 am to 2:00 pm.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Asad Nawaz, can be reached on (571) 272-3988. The fax phone number for all papers is (571) 273-8300.

17. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Robert B. Harrell/  
ROBERT B. HARRELL  
PRIMARY EXAMINER  
Art Unit 2442